

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)  
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Short Title: Revenue Laws Tech., Clarifying, & Admin Chngs.

(Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED  
AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES  
TO THE TAX AND RELATED LAWS.

The General Assembly of North Carolina enacts:

**PART I. TECHNICAL CHANGES**

**SECTION 1.1** G.S. 105-130.5(b) reads as rewritten:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

...

(14) The amount by which the basis of a depreciable asset is required to be reduced under the Code for federal tax purposes because of a tax credit allowed against the corporation's federal income tax ~~liability~~ liability or because of a grant allowed under section 1603 of the American Recovery and Reinvestment Tax Act of 2009, P.L. 111-3. This deduction may be claimed only in the year in which the Code requires that the asset's basis be reduced. In computing gain or loss on the asset's disposition, this deduction shall be considered as depreciation.

..."

**SECTION 1.2.** G.S. 105-164.13 reads as rewritten:

**"§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(11) Any of the following fuel:

- a. Motor fuel, as ~~defined in G.S. 105-449.60,~~ taxed in Article 36C, except motor fuel for which a refund of the per gallon excise tax is allowed under G.S. 105-449.105A or G.S. 105-449.107.
- b. Alternative fuel taxed under Article 36D of this Chapter, unless a refund of that tax is allowed under G.S. 105-449.107.

...

(49) Installation charges when the charges are separately stated on the invoice or similar billing document given to the purchaser at the time of sale.



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(49a) Delivery charges for delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser-purchaser at the time of sale.

..."

**SECTION 1.3.** The title of Article 5F of Chapter 105 of the General Statutes reads as rewritten:

"Article 5F.

~~Manufacturing Fuel and Certain Machinery and Equipment."~~

**SECTION 1.4.** The catchline of G.S. 105-187.70, as enacted by Section 6 of S.L. 2011-122, reads as rewritten:

**"§ 105-187.70. Department comply with Article 43 of Chapter 62A of the General Statutes."**

**SECTION 1.5.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

"(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2011,~~ January 1, 2012, including any provisions enacted as of that date that become effective either before or after that date."

**SECTION 1.5.(b)** This section is effective when it becomes law. Notwithstanding subsection (a) of this section, any amendments to the Internal Revenue Code enacted after January 1, 2011, that increase North Carolina taxable income for the 2011 taxable year become effective for taxable years beginning on or after January 1, 2012.

**SECTION 1.6.** G.S. 105-263(a) reads as rewritten:

"(a) Mailed Document. —~~Section Sections 7502 and 7503~~ of the Code ~~governs govern~~ when a return, report, payment, or any other document that is mailed to the Department is timely filed."

**SECTION 1.7.** G.S. 105-277.1F(a)(1) reads as rewritten:

"(a) Scope. – This section applies to the following deferred tax programs:

(1) ~~G.S. 105-275(12)f., real property held for future transfer to government unit for conservation purposes.~~ G.S. 105-275(12), real property owned by a nonprofit corporation held as a protected natural area."

**SECTION 1.8.** G.S. 105-468 reads as rewritten:

**"§ 105-468. Scope of use tax.**

The use tax authorized by this Article is a tax at the rate of one percent (1%) of the cost price of each item or article of tangible personal property that is not sold in the taxing county but is used, consumed, or stored for use or consumption in the taxing county. The tax applies to the same items that are subject to tax under G.S. 105-467.

Every retailer who is engaged in business in this State and in the taxing county and is required to collect the use tax levied by G.S. 105-164.6 shall collect the one percent (1%) use tax when the property is to be used, consumed, or stored in the taxing county. The use tax contemplated by this section shall be levied against the purchaser, and the purchaser's liability for the use tax shall be extinguished only upon payment of the use tax to the retailer, where the retailer is required to collect the tax, or to the Secretary, where the retailer is not required to collect the tax.

Where a local sales or use tax has been paid with respect to tangible personal property by the ~~purchaser, either purchaser~~ in another taxing county within the State, or where a local sales or use tax was due and has been paid in a taxing jurisdiction outside the State where the purpose of the tax is similar in purpose and intent to the tax which may be imposed pursuant to this Article, the tax paid may be credited against the tax imposed under this section by a taxing county upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due the taxing county under this section, the purchaser shall pay to the Secretary an amount equal to the difference between the amount so paid in the other taxing county or jurisdiction and the amount due in the taxing county. The Secretary may require such proof of

1 payment in another taxing county or jurisdiction as is deemed to be necessary. The use tax  
2 levied under this Article is not subject to credit for payment of any State sales or use tax not  
3 imposed for the benefit and use of counties and municipalities. No credit shall be given under  
4 this section for sales or use taxes paid in a taxing jurisdiction outside this State if that taxing  
5 jurisdiction does not grant similar credit for sales taxes paid under this Article."

6 **SECTION 1.9.** G.S. 160A-536(e)(2) reads as rewritten:

7 "(2) The city must receive a petition signed by at least sixty percent (60%) of the  
8 lot owners of the owners' association requesting the city to establish a  
9 municipal service district for the purpose of paying the costs related to  
10 converting private residential streets to public streets. The executive board of  
11 an owners' association for which the city has received a petition under this  
12 subsection may transfer street-related common elements to the city,  
13 notwithstanding the provisions of either the North Carolina Planned  
14 Community Act in Chapter 47F of the General ~~Statutes~~, Statutes or the  
15 North Carolina Condominium Act in Chapter 47C of the General Statutes, or  
16 related articles of declaration, deed covenants, or any other similar document  
17 recorded with the Register of Deeds."

18 **SECTION 1.10.(a)** G.S. 20-63 reads as rewritten:

19 "(b1) **(Effective until July 1, 2016)** The following special registration plates do not have  
20 to be a "First in Flight" plate as provided in subsection (b) of this section. The design of the  
21 plates that are not "First in Flight" plates must be approved by the Division and the State  
22 Highway Patrol for clarity and ease of identification. When the Division registers a vehicle or  
23 renews the registration of a vehicle on or after July 1, 2015, the Division must send the owner a  
24 replacement special license plate in a standardized format in accordance with subsection (b) of  
25 this section and G.S. 20-79.4(a3).

- 26 (1) Friends of the Great Smoky Mountains National Park.
- 27 (2) Rocky Mountain Elk Foundation.
- 28 (3) Blue Ridge Parkway Foundation.
- 29 (4) Friends of the Appalachian Trail.
- 30 (5) NC Coastal Federation.
- 31 (6) In God We Trust.
- 32 (7) Stock Car Racing Theme.
- 33 (8) Buddy Pelletier Surfing Foundation.
- 34 (9) Guilford Battleground Company.
- 35 (10) National Wild Turkey Federation.
- 36 (11) North Carolina Aquarium Society.
- 37 (12) First in Forestry.
- 38 (13) North Carolina Wildlife Habitat Foundation.
- 39 (14) NC Trout Unlimited.
- 40 (15) Ducks Unlimited.
- 41 (16) Lung Cancer Research.
- 42 (17) NC State Parks.
- 43 (18) Support Our Troops.
- 44 (19) US Equine Rescue League.
- 45 (20) Fox Hunting.
- 46 (21) Back Country Horsemen of North Carolina.
- 47 (22) Hospice Care.
- 48 (23) Home Care and Hospice.
- 49 (24) NC Tennis Foundation.
- 50 (25) AIDS Awareness.
- 51 (26) Donate Life.

- (27) Farmland Preservation.
- (28) Travel and Tourism.
- (29) Battle of Kings Mountain.
- (30) NC Civil War.
- (31) North Carolina Zoological Society.
- (32) United States Service Academy.
- (33) Carolina Raptor Center.
- (34) Carolinas Credit Union Foundation.
- (35) North Carolina State Flag.
- (36) NC Mining.
- (37) Coastal Land Trust.
- (38) ARTS NC.
- (39) Choose Life.
- (40) North Carolina Green Industry Council.
- (41) NC Horse Council.
- (42) Core Sound Waterfowl Museum and Heritage Center.
- (43) Mountains-to-Sea Trail, Inc."

**SECTION 1.9.(b)** G.S. 20-79.7(a) reads as rewritten:

**"§ 20-79.7. Fees for special registration plates and distribution of the fees.**

(a) Fees. – Upon request, the Division shall provide and issue free of charge a single Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War registration plate to a recipient of a Legion of Valor award, a 100% disabled veteran, and an ex-prisoner of war each year. The preceding special registration plates are subject to the regular motor vehicle registration fees in G.S. 20-88, if the registered weight of the vehicle is greater than 6,000 pounds. All other special registration plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
American Red Cross	\$30.00
Animal Lovers	\$30.00
Arthritis Foundation	\$30.00
ARTS NC	\$30.00
Back Country Horsemen of NC	\$30.00
Boy Scouts of America	\$30.00
Brenner Children's Hospital	\$30.00
Carolina Raptor Center	\$30.00
Carolinas Credit Union Foundation	\$30.00
Carolinas Golf Association	\$30.00
Coastal Conservation Association	\$30.00
Coastal Land Trust	\$30.00
Crystal Coast	\$30.00
Daniel Stowe Botanical Garden	\$30.00
El Pueblo	\$30.00
Farmland Preservation	\$30.00
First in Forestry	\$30.00
Girl Scouts	\$30.00
Greensboro Symphony Guild	\$30.00
Historical Attraction	\$30.00
Home Care and Hospice	\$30.00
Home of American Golf	\$30.00
HOMES4NC	\$30.00
Hospice Care	\$30.00

1	In God We Trust	\$30.00
2	Maggie Valley Trout Festival	\$30.00
3	<u>Morgan Horse Club</u>	<u>\$30.00</u>
4	Mountains-to-Sea Trail	\$30.00
5	NC Civil War	\$30.00
6	NC Coastal Federation	\$30.00
7	NC Veterinary Medical Association	\$30.00
8	National Kidney Foundation	\$30.00
9	North Carolina 4-H Development Fund	\$30.00
10	North Carolina Emergency Management Association	\$30.00
11	North Carolina Green Industry Council	\$30.00
12	North Carolina Libraries	\$30.00
13	Outer Banks Preservation Association	\$30.00
14	Pamlico-Tar River Foundation	\$30.00
15	P.E.O. Sisterhood	\$30.00
16	Personalized	\$30.00
17	Retired Legislator	\$30.00
18	Ronald McDonald House	\$30.00
19	Share the Road	\$30.00
20	S.T.A.R.	\$30.00
21	State Attraction	\$30.00
22	Stock Car Racing Theme	\$30.00
23	Support NC Education	\$30.00
24	Support Our Troops	\$30.00
25	<u>Sustainable Fisheries</u>	<u>\$30.00</u>
26	Toastmasters Club	\$30.00
27	Topsail Island Shoreline Protection	\$30.00
28	Travel and Tourism	\$30.00
29	AIDS Awareness	\$25.00
30	Buffalo Soldiers	\$25.00
31	Choose Life	\$25.00
32	Collegiate Insignia	\$25.00
33	First in Turf	\$25.00
34	Goodness Grows	\$25.00
35	High School Insignia	\$25.00
36	Kids First	\$25.00
37	National Multiple Sclerosis Society	\$25.00
38	National Wild Turkey Federation	\$25.00
39	NC Agribusiness	\$25.00
40	NC Children's Promise	\$25.00
41	Nurses	\$25.00
42	Olympic Games	\$25.00
43	Rocky Mountain Elk Foundation	\$25.00
44	Special Olympics	\$25.00
45	Support Soccer	\$25.00
46	Surveyor Plate	\$25.00
47	The V Foundation for Cancer Research Division	\$25.00
48	University Health Systems of Eastern Carolina	\$25.00
49	Alpha Phi Alpha Fraternity	\$20.00
50	ALS Association, Jim "Catfish" Hunter Chapter	\$20.00
51	ARC of North Carolina	\$20.00

1	Audubon North Carolina	\$20.00
2	Autism Society of North Carolina	\$20.00
3	Battle of Kings Mountain	\$20.00
4	Be Active NC	\$20.00
5	Brain Injury Awareness	\$20.00
6	Breast Cancer Earlier Detection	\$20.00
7	Buddy Pelletier Surfing Foundation	\$20.00
8	Concerned Bikers Association/ABATE of North Carolina	\$20.00
9	Daughters of the American Revolution	\$20.00
10	Donate Life	\$20.00
11	Ducks Unlimited	\$20.00
12	Greyhound Friends of North Carolina	\$20.00
13	Guilford Battleground Company	\$20.00
14	Harley Owners' Group	\$20.00
15	Jaycees	\$20.00
16	Juvenile Diabetes Research Foundation	\$20.00
17	Kappa Alpha Order	\$20.00
18	Litter Prevention	\$20.00
19	March of Dimes	\$20.00
20	<del>Morgan Horse Club</del>	<del>\$20.00</del>
21	Native American	\$20.00
22	NC Fisheries Association	\$20.00
23	NC Horse Council	\$20.00
24	NC Mining	\$20.00
25	NC Tennis Foundation	\$20.00
26	NC Trout Unlimited	\$20.00
27	NC Victim Assistance	\$20.00
28	NC Wildlife Federation	\$20.00
29	NC Wildlife Habitat Foundation	\$20.00
30	NC Youth Soccer Association	\$20.00
31	North Carolina Master Gardener	\$20.00
32	Omega Psi Phi Fraternity	\$20.00
33	Phi Beta Sigma Fraternity	\$20.00
34	Piedmont Airlines	\$20.00
35	Prince Hall Mason	\$20.00
36	Save the Sea Turtles	\$20.00
37	Scenic Rivers	\$20.00
38	School Technology	\$20.00
39	SCUBA	\$20.00
40	Soil and Water Conservation	\$20.00
41	Special Forces Association	\$20.00
42	Support Public Schools	\$20.00
43	<del>Sustainable Fisheries</del>	<del>\$20.00</del>
44	US Equine Rescue League	\$20.00
45	USO of NC	\$20.00
46	Wildlife Resources	\$20.00
47	Zeta Phi Beta Sorority	\$20.00
48	Carolina Regional Volleyball Association	\$15.00
49	Carolina's Aviation Museum	\$15.00
50	Leukemia & Lymphoma Society	\$15.00
51	Lung Cancer Research	\$15.00

1	NC Beekeepers	\$15.00
2	Shag Dancing	\$15.00
3	Active Member of the National Guard	None
4	100% Disabled Veteran	None
5	Ex-Prisoner of War	None
6	Gold Star Lapel Button	None
7	Legion of Valor	None
8	Purple Heart Recipient	None
9	All Other Special Plates	\$10.00."

## PART II. CLARIFYING AND ADMINISTRATIVE CHANGES

SECTION 2.1. G.S. 105-113.38 reads as rewritten:

### "§ 105-113.38. ~~Bond~~ Bond or irrevocable letter of credit.

The Secretary may require a wholesale dealer or a retail dealer to furnish a bond in an amount that adequately protects the State from loss if the dealer fails to pay taxes due under this Part. A bond shall be conditioned on compliance with this Part, shall be payable to the State, and shall be in the form required by the Secretary. The Secretary shall proportion a bond amount to the anticipated tax liability of the wholesale dealer or retail dealer. The Secretary shall periodically review the sufficiency of bonds required of dealers, and shall increase the amount of a required bond when the amount of the bond furnished no longer covers the anticipated tax liability of the wholesale dealer or retail dealer. The Secretary shall decrease the amount of a required bond when the Secretary determines that a smaller bond amount will adequately protect the State from loss. For purposes of this section, a bond may also include an irrevocable letter of credit."

SECTION 2.2.(a) G.S. 105-113.107(1a) reads as rewritten:

"(1a) At the rate of three dollars and fifty cents (\$3.50) for each gram, or fraction thereof, of marijuana, other than separated stems and stalks taxed under subdivision (1) of this ~~section~~ section, or synthetic cannabinoids."

SECTION 2.2.(b) This section is effective June 1, 2011.

SECTION 2.3. G.S. 105-120.2(c) reads as rewritten:

"(c) For purposes of this section, a "holding company" is a corporation that ~~receives~~ satisfies at least one of the following conditions:

(1) It has no assets other than ownership interests in corporations in which it owns directly or indirectly more than fifty percent (50%) of the outstanding voting stock or voting capital interests.

(2) It receives during its taxable year more than eighty percent (80%) of its gross income from corporations in which it owns directly or indirectly more than fifty percent (50%) of the outstanding voting stock or voting capital interests."

SECTION 2.4. G.S. 105-164.3 reads as rewritten:

### "§ 105-164.3. Definitions.

The following definitions apply in this Article:

...

(25a) Over-the-counter drug. – A drug that can be dispensed under federal law without a prescription and is required by 21 C.F.R. § 201.66 to have a label containing a "Drug Facts" panel ~~and~~ or a statement of its active ingredients.

...

(36) Sale or selling. – The transfer for consideration of ~~title~~ title, license to use or consume, or possession of tangible personal property or digital property or the performance for consideration of a service. The transfer or performance

may be conditional or in any manner or by any means. The term includes the following:

- a. Fabrication of tangible personal property for consumers by persons engaged in business who furnish either directly or indirectly the materials used in the fabrication work.
- b. Furnishing or preparing tangible personal property consumed on the premises of the person furnishing or preparing the property or consumed at the place at which the property is furnished or prepared.
- c. A transaction in which the possession of the property is transferred but the seller retains title or security for the payment of the consideration.
- d. A lease or rental.
- e. Transfer of a digital code.

...

(45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as amended as of May 12, 2009. December 19, 2011.

..."

**SECTION 2.5.** G.S. 105-164.4B(a) reads as rewritten:

"(a) General Principles. – The following principles apply in determining where to source the sale of a product. These principles apply regardless of the nature of the ~~product~~. product except as otherwise noted in this section:

- (1) Over-the-counter. – When a purchaser receives a product at a business location of the seller, the sale is sourced to that business location.
- (2) Delivery to specified address. – When a purchaser or purchaser's donee receives a product at a location specified by the purchaser and the location is not a business location of the seller, the sale is sourced to the location where the purchaser or the purchaser's donee receives the product.
- ~~(3) Delivery address unknown. – When a seller of a product does not know the address where a product is received, the sale is sourced to the first address or location listed in this subdivision that is known to the seller:~~
  - ~~a. The business or home address of the purchaser.~~
  - ~~b. The billing address of the purchaser or, if the product is prepaid wireless calling service, the location associated with the mobile telephone number.~~
  - ~~c. The address from which tangible personal property was shipped or from which a service was provided.~~
- (4) When subsections (1) and (2) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.
- (5) When subsections (1), (2) and (4) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.
- (6) When subsections (1), (2), (4), and (5) do not apply, including the circumstance in which the seller is without sufficient information to apply the rules, the location will be determined based on the following:
  - a. Address from which tangible personal property was shipped,

- b. Address from which the digital good or the computer software delivered electronically was first available for transmission by the seller or,
- c. Address from which the service was provided."

**SECTION 2.6.** G.S. 105-164.7 reads as rewritten:

**"§ 105-164.7. Retailer to collect sales tax from purchaser as trustee for State.**

The sales tax imposed by this Article is intended to be passed on to the purchaser of a taxable item and borne by the purchaser instead of by the retailer. A retailer must collect the tax due on an item when the item is sold at retail. The tax is a debt from the purchaser to the retailer until paid and is recoverable at law by the retailer in the same manner as other debts. A retailer is considered to act as a trustee on behalf of the State when it collects tax from the purchaser of a taxable item. The tax must be stated and charged separately on the invoices or other documents of the retailer given to the purchaser except for vending machine sales. Where the sales price of a product includes the tax, a retailer must clearly display a statement indicating such."

**SECTION 2.7.(a)** Part 2 of Article 5 of Chapter 105 of the General Statutes is amended by adding the following new section:

**"§ 105-164.12C. Items given away by merchants.**

If a retailer engaged in the business of selling prepared food and drink for immediate or on-premises consumption also gives prepared food or drink to its patrons or employees free of charge, for the purpose of this Article the property given away is considered sold along with the property sold. If a retailer gives an item of inventory to a customer free of charge on the condition that the customer purchase similar or related property, the item given away is considered sold along with the item sold. In all other cases, property given away or used by any retailer or wholesale merchant is not considered sold, whether or not the retailer or wholesale merchant recovers its cost of the property from sales of other property."

**SECTION 2.7.(b)** This section is effective August 7, 2009.

**SECTION 2.8.** G.S. 105-164.14(a) reads as rewritten:

"(a) Interstate Carriers. – An interstate carrier is allowed a refund, in accordance with this section, of part of the sales and use taxes paid by it on the purchase in this State of railway cars and locomotives, and fuel, lubricants, repair parts, and accessories for a motor vehicle, railroad car, locomotive, or airplane the carrier operates. An "interstate carrier" is a person who is engaged in transporting persons or property in interstate commerce for compensation. The Secretary shall prescribe the periods of time, whether monthly, quarterly, semiannually, or otherwise, with respect to which refunds may be claimed, and shall prescribe the time within which, following these periods, an application for refund may be made.

An applicant for refund shall furnish the following information and any proof of the information required by the Secretary:

- (1) A list identifying the railway cars, locomotives, fuel, lubricants, repair parts, and accessories purchased by the applicant inside or outside this State during the refund period.
- (2) The purchase price of the items listed in subdivision (1) of this subsection.
- (3) The sales and use taxes paid in this State on the listed items.
- (4) The number of miles the applicant's motor vehicles, railroad cars, locomotives, and airplanes were operated both inside and outside this State during the refund period. Airplane miles are not in this State if the airplane does not depart or land in this State.
- (5) Any other information required by the Secretary.

For each applicant, the Secretary shall compute the amount to be refunded as follows. First, the Secretary shall determine the ratio of mileage ratio. The numerator of the mileage ratio is the number of miles the applicant operated its motor vehicles, railroad cars, locomotives, and

airplanes in this State during the refund ~~period to period~~. The denominator of the mileage ratio is the number of miles it operated ~~them all motor vehicles, railroad cars, locomotives, and airplanes that the applicant owns~~, both inside and outside this State during the refund period. Second, the Secretary shall determine the applicant's proportional liability for the refund period by multiplying this mileage ratio by the purchase price of the items identified in subdivision (1) of this subsection and then multiplying the resulting product by the tax rate that would have applied to the items if they had all been purchased in this State. Third, the Secretary shall refund to each applicant the excess of the amount of sales and use taxes the applicant paid in this State during the refund period on these items over the applicant's proportional liability for the refund period."

**SECTION 2.9.** G.S. 105-164.27A reads as rewritten:

**"§ 105-164.27A. Direct pay permit.**

(a) General. – A general direct pay permit authorizes its holder to purchase any tangible personal property, digital property, or service without paying tax to the seller and authorizes the seller to not collect any tax on a sale to the permit holder. A person who purchases an item under a direct pay permit issued under this subsection is liable for use tax due on the purchase. The tax is payable when the property is placed in use or the service is received. A direct pay permit issued under this subsection does not apply to taxes imposed under G.S. 105-164.4 on electricity.

A person who purchases an item for use in this State whose tax status cannot be determined at the time of the purchase because of one of the reasons listed below may apply to the Secretary for a general direct pay permit:

- (1) The place of business where the item will be used is not known at the time of the purchase and a different tax consequence applies depending on where the item is used.
- (2) The manner in which the item will be used is not known at the time of the purchase and one or more of the potential uses is taxable but others are not taxable.

...

(b) Telecommunications Service. – A direct pay permit for telecommunications service authorizes its holder to purchase telecommunications service and ancillary service without paying tax to the seller and authorizes the seller to not collect any tax on a sale to the permit holder. A person who purchases these services under a direct pay permit must file a return and pay the tax due monthly or quarterly to the Secretary. A direct pay permit issued under this subsection does not apply to any tax other than the tax on telecommunications service and ancillary service.

A call center that purchases telecommunications service that originates outside this State and terminates in this State may apply to the Secretary for a direct pay permit for telecommunications service and ancillary service. A call center is a business that is primarily engaged in providing support services to customers by telephone to support products or services of the business. A business is primarily engaged in providing support services by telephone if at least sixty percent (60%) of its calls are incoming.

..."

**SECTION 2.10.** G.S. 105-187.43(b) reads a rewritten:

"(b) Prepayment. – A taxpayer who is consistently liable for at least ~~ten~~ twenty thousand dollars ~~(\$10,000)~~ (\$20,000) of tax a month must make a monthly prepayment of the next month's tax liability. This requirement applies when the taxpayer meets the threshold and the Secretary notifies the taxpayer to make prepayments. A prepayment is due on the date a monthly payment is due. The prepayment must equal at least sixty five percent (65%) of any of the following:

- (1) The amount of tax due for the current month.

- (2) The amount of tax due for the same month in the preceding year.  
(3) The average monthly amount of tax due in the preceding calendar year."

**SECTION 2.11.** G.S. 143-59.1(a) reads as rewritten:

"(a) Ineligible Vendors. – The Secretary of Administration and other entities to which this Article applies shall not contract for goods or services with either of the following:

- (1) A vendor if the vendor or an affiliate of the vendor meets one or more of the conditions of G.S. 105-164.8(b) but refuses to collect the use tax levied under Article 5 of Chapter 105 of the General Statutes on its sales delivered to North Carolina. ~~The Upon request, the Secretary of Revenue shall provide the Secretary of Administration periodically with a list of vendors to which or another entity to which this Article applies verification whether this section applies.~~ applies to a specific entity.  
(2) A vendor if the vendor or an affiliate of the vendor incorporates or reincorporates in a tax haven country after December 31, 2001, but the United States is the principal market for the public trading of the stock of the corporation incorporated in the tax haven country."

**SECTION 2.12.** G.S. 105-241(b)(2a) reads as rewritten:

"(2a) Motor fuel taxes. – A taxpayer that ~~is required to file~~ files an electronic return under Subchapter V of this Chapter or Article 3 of Chapter 119 of the General Statutes must pay the tax by electronic funds transfer."

**SECTION 2.13.** Effective when it becomes law, but expiring at the same time as Section 1 of S.L. 2011-296 expires (currently July 1, 2013), G.S. 161-10(a), as rewritten by S.L. 2011-296, reads as rewritten:

**"§ 161-10. Uniform fees of registers of deeds.**

(a) Except as otherwise provided in this Article, all fees collected under this section shall be deposited into the county general fund. While performing the duties of the office, the register of deeds shall collect the following fees which shall be uniform throughout the State:

- (1) Instruments in General. – For registering or filing any instrument for which no other provision is made by this section, the fee shall be twenty-six dollars (\$26.00) for the first 15 pages plus four dollars (\$4.00) for each additional page or fraction thereof.

~~When a subsequent instrument, as defined in G.S. 161-14.1(a)(3), is presented for registration with reference to more than one original instrument for which recording data are required to be indexed pursuant to G.S. 161-14.1(b), the fee shall be an additional twenty five dollars (\$25.00) for each additional reference. For any instrument that assigns more than one security instrument as defined in G.S. 45-36.4(18) by reference to previously recorded instrument recording data that are required to be indexed pursuant to G.S. 161-14.1(b), the fee shall be an additional ten dollars (\$10.00) for each additional reference.~~

When a document is presented for registration that consists of multiple instruments, the fee shall be an additional ten dollars (\$10.00) for each additional instrument. A document consists of multiple instruments when it contains two or more instruments with different legal consequences or intent, each of which is separately executed and acknowledged and could be recorded alone.

...."

**SECTION 2.14.(a)** G.S. 45-102(6) reads as rewritten:

"(6) The address, telephone number, and other contact information for the ~~consumer complaint section State Home Foreclosure Prevention Project of the Housing Finance Agency. Office of Commissioner of Banks, or, alternatively, if the loan is serviced by~~

1 a credit union, the address, telephone number, and other contact information for the consumer  
2 complaint section of the Credit Union Division."

3 **SECTION 2.14.(b)** G.S. 45-103(a) reads as rewritten:

4 "(a) Within three business days of mailing the notice required by G.S. 45-102, the  
5 mortgage servicer shall file certain information with the Administrative Office of the Courts.  
6 The filing shall be in an electronic format, as designated by the Administrative Office of the  
7 Courts, and shall contain the name and address of the borrower, the due date of the last  
8 scheduled payment made by the borrower, and the date the notice was mailed to the borrower.  
9 The Administrative Office of the Courts shall establish an internal database to track  
10 information required by this section. The ~~Commissioner of Banks~~ Housing Finance Agency  
11 shall design and develop the State Home Foreclosure Prevention Project database, in  
12 consultation with the Administrative Office of the Courts. Only the Administrative Office of  
13 the Courts, ~~the Office of Commissioner of Banks~~, the Housing Finance Agency, and the clerk  
14 of court as provided by G.S. 45-107 shall have access to the database."

15 **SECTION 2.14.(c)** G.S. 45-104 reads as rewritten:

16 **"§ 45-104. State Home Foreclosure Prevention Project and Fund.**

17 (a) ~~The Commissioner of Banks is authorized to establish the State Home Foreclosure~~  
18 ~~Prevention Project.~~ The purpose of the State Home Foreclosure Prevention Project is to seek  
19 solutions to avoid foreclosures for home loans. ~~In developing the The Project, the~~  
20 ~~Commissioner~~ may include input from HUD-approved housing counselors, community  
21 organizations, the Credit Union Division and other State agencies, mortgage lenders, mortgage  
22 servicers, and other partners. The Housing Finance Agency shall administer the Project.

23 (b) There is established a State Home Foreclosure Prevention Trust Fund to be managed  
24 and maintained by the Housing Finance Agency. The funds shall be held separate from any  
25 other funds received by ~~either the Office of the Commissioner of Banks or the Housing Finance~~  
26 Agency in trust for the operation of the State Home Foreclosure Prevention Project.

27 (c) Upon the filing of the information required under G.S. 45-103, the mortgage  
28 servicer shall pay a fee of seventy-five dollars (\$75.00) to the State Home Foreclosure  
29 Prevention Trust Fund. The fee shall not be charged more than once for a home loan covered  
30 by this act. The ~~Office of the Commissioner of Banks~~ Housing Finance Agency shall collect the  
31 fee. Upon receipt of the fee the Housing Finance Agency ~~Commissioner~~ shall deposit the funds  
32 ~~into a separate account. The funds shall be transferred no less than monthly~~ into the State Home  
33 Foreclosure Prevention Trust Fund. The Housing Finance Agency shall manage the State Home  
34 Foreclosure Prevention Trust Fund.

35 (d) The Housing Finance Agency shall use funds from the State Home Foreclosure  
36 Prevention Trust Fund to compensate performance-based service contracts or other contracts  
37 and grants necessary to implement the purposes of this act in the following manner:

38 (1) An amount, not to exceed the greater of two million two hundred thousand  
39 dollars (\$2,200,000) or thirty percent (30%) of the funds per year, to cover  
40 the administrative costs of the operation of the program by ~~the Office of the~~  
41 ~~Commissioner of Banks and the~~ Housing Finance Agency, including  
42 managing on behalf of the Administrative Office of the Courts the database  
43 identified in G.S. 45-103, expenses associated with informing homeowners  
44 of State resources available for foreclosure prevention, expenses associated  
45 with connecting homeowners to available resources, and assistance to  
46 homeowners and counselors in communicating with mortgage servicers.

47 (2) An amount, not to exceed the greater of three million four hundred thousand  
48 dollars (\$3,400,000) or forty percent (40%) per year, to make grants to or  
49 reimburse nonprofit housing counseling agencies for providing foreclosure  
50 prevention counseling services to homeowners involved in the State Home  
51 Foreclosure Prevention Project.

(3) An amount, not to exceed thirty percent (30%) of the total funds collected per year, to make grants to or reimburse nonprofit legal service providers for services rendered on behalf of homeowners in danger of defaulting on a home loan to avoid foreclosure, limited to legal representation such as negotiation of loan modifications or other loan work-out solutions, defending homeowners in foreclosure or representing homeowners in bankruptcy proceedings, and research and counsel to homeowners regarding the status of their home loans.

(4) Any funds remaining in the State Home Foreclosure Prevention Trust Fund as of June 30, 2011, and any funds remaining in the State Home Foreclosure Prevention Trust Fund upon the expiration of each subsequent fiscal year shall be directed to the North Carolina Housing Trust Fund.

(e) The Housing Finance Agency shall have the discretion to enter into an agreement to administer funds under subdivisions (2) and (3) of subsection (d) of this section in a manner that complements or supplements other State and federal programs directed to prevent foreclosures for homeowners participating in the State Home Foreclosure Prevention Project."

**SECTION 2.14.(d)** G.S. 45-105 reads as rewritten:

**"§ 45-105. Extension of foreclosure process.**

~~The Commissioner of Banks upon referral from the~~ Housing Finance Agency shall review information provided in the database created by G.S. 45-103 to determine which home loans are appropriate for efforts to avoid foreclosure. If the ~~Commissioner~~ Housing Finance Agency reasonably believes, based on a full review of the loan information, the mortgage servicer's loss mitigation efforts, the borrower's capacity and interest in staying in the home, and other appropriate factors, that further efforts by the State Home Foreclosure Prevention Project offer a reasonable prospect to avoid foreclosure on primary residences, the ~~Commissioner~~ Executive Director of the Housing Finance Agency shall have the authority to extend one time under this Article the allowable filing date for any foreclosure proceeding on a primary residence by up to 30 days beyond the earliest filing date established by the pre-foreclosure notice. If the ~~Commissioner~~ Executive Director of the Housing Finance Agency makes the determination that a loan is subject to this section, the ~~Commissioner~~ Housing Finance Agency shall notify the borrower, mortgage servicer, and the Administrative Office of the Courts. ~~If the mortgage servicer is a state or federally chartered credit union, the Commissioner shall also notify the Administrator of the Credit Union Division of the determination."~~

**SECTION 2.14.(e)** G.S. 45-106 reads as rewritten:

**"§ 45-106. Use and privacy of records.**

The data provided to the Administrative Office of the Courts pursuant to G.S. 45-103 shall be exclusively for the use and purposes of the State Home Foreclosure Prevention Project developed by the Commissioner of Banks and administered by the Housing Finance Agency in accordance with G.S. 45-104. The information provided to the database is not a public record, except that a mortgage lender and a mortgage servicer shall have access to the information submitted only with regard to its own loans. ~~Any notice provided by the Commissioner to the Administrator of the Credit Union Division under G.S. 45-105 is not a public record.~~ Provision of information to the Administrative Office of the Courts for use by the State Home Foreclosure Prevention Project shall not be considered a violation of G.S. 53B-8. A mortgage servicer shall be held harmless for any alleged breach of privacy rights of the borrower with respect to the information the mortgage servicer provides in accordance with this Article."

**SECTION 2.14.(f)** Section 5 of S.L. 2008-226 reads as rewritten:

**"SECTION 5.** ~~The Office of the Commissioner of Banks~~ Housing Finance Agency shall report to the General Assembly describing the operation of the program established by this act not later than May 1 of each year until the funds are completely disbursed from the

~~reserve.~~ State Home Foreclosure Prevention Trust Fund. Information in the report shall be presented in aggregate form and may include the number of clients helped, the effectiveness of the funds in preventing home foreclosure, recommendations for further efforts needed to reduce foreclosures, and provide any other aggregated information the ~~Commissioner~~ Housing Finance Agency determines is pertinent or that the General Assembly requests."

**SECTION 2.14.(g)** Section 6 of S.L. 2008-226, as amended by Section 9 of S.L. 2010-168, reads as rewritten:

"**SECTION 6.** Section 4 of this act becomes effective July 1, 2008. Sections 1, 2, 3, and 5 become effective November 1, 2008, ~~and expire May 31, 2013.~~ 2008. The remainder of this act is effective when it becomes law."

**SECTION 2.14.(h)** This section becomes effective December 1, 2012. The North Carolina Housing Finance Agency shall assume the responsibilities designated in this section for operation of the State Home Foreclosure Prevention Project no later than December 31, 2012.

### **PART III. MOTOR VEHICLE/PROPERTY TAX CHANGES**

**SECTION 3.1.** G.S. 105-321(f) reads as rewritten:

"(f) **Minimal Taxes.** – Notwithstanding the provisions of G.S. 105-380, the governing body of a taxing unit that collects its own taxes may, by resolution, direct its assessor and tax collector not to collect minimal taxes charged on the tax records and receipts. Minimal taxes are the combined taxes and fees of the taxing unit and any other units for which it collects taxes, due on a tax receipt prepared pursuant to G.S. 105-320 ~~or on a tax notice prepared pursuant to G.S. 105-330.5,~~ in a total original principal amount that does not exceed an amount, up to five dollars (\$5.00), set by the governing body. The amount set by the governing body should be the estimated cost to the taxing unit of billing the taxpayer for the amounts due on a tax receipt or tax notice. Upon adoption of a resolution pursuant to this subsection, the tax collector shall not bill the taxpayer for, or otherwise collect, minimal taxes but shall keep a record of all minimal taxes by receipt number and amount and shall make a report of the amount of these taxes to the governing body at the time of the settlement. These minimal taxes shall not be a lien on the taxpayer's real property and shall not be collectible under Article 26 of this Subchapter. A resolution adopted pursuant to this subsection must be adopted on or before June 15 preceding the first taxable year to which it applies and remains in effect until amended or repealed by resolution of the taxing unit. A resolution adopted pursuant to this subsection shall not apply to taxes on registered motor vehicles."

**SECTION 3.2.** G.S. 105-330.2 reads as rewritten:

"...

(b1) **Valuation Appeal.** – The owner of a classified motor vehicle may appeal the appraised value ~~or taxability~~ of the vehicle by filing a request for appeal with the assessor within 30 days of the date taxes are due on the vehicle under G.S. 105-330.4. An owner who appeals the appraised value ~~or taxability~~ of a classified motor vehicle must pay the tax on the vehicle when due, subject to a full or partial refund if the appeal is decided in the owner's favor.

The combined tax and registration notice or tax receipt for a classified motor vehicle must explain the right to appeal the appraised value ~~and taxability~~ of the vehicle. A lessee of a vehicle that is required by the terms of the lease to pay the tax on the vehicle is considered the owner of the vehicle for purposes of filing an appeal under this subsection. Appeals filed under this subsection shall proceed in the manner provided by G.S. 105-312(d).

(b2) **Exemption or Exclusion Appeal.** – The owner of a classified motor vehicle may appeal the vehicle's eligibility for an exemption or exclusion by filing a request for appeal with the assessor within 30 days of the assessor's initial decision on the exemption or exclusion application filed by the owner pursuant to G.S. 105-330.3(b). Appeals filed under this subsection shall proceed in the manner provided by G.S. 105-312(d).

1       ..."

2               **SECTION 3.3.** G.S. 105-330.3 reads as rewritten:

3       "..."

4       (a1)   Unregistered Vehicles. – The owner of an unregistered classified motor vehicle  
5 must list the vehicle for taxes by filing an abstract with the assessor of the county in which the  
6 vehicle is located on or before January 31 following the date the owner acquired the  
7 unregistered vehicle or, in the case of a registration that is not renewed, January 31 following  
8 the date the registration expires, and on or before January 31 of each succeeding year that the  
9 vehicle is unregistered. If a classified motor vehicle required to be listed pursuant to this  
10 subsection is registered during the calendar before the end of the fiscal year in for which it was  
11 listed, the vehicle is taxed for the fiscal year that opens in the calendar year of listing as an  
12 unregistered vehicle. required to be listed, the following applies:

13           (1)   The vehicle is taxed as a registered vehicle and the tax assessed pursuant to  
14 this subsection for the fiscal year in which the vehicle was required to be  
15 listed shall be released and/or refunded.

16           (2)   For any months for which the vehicle was not taxed between the date the  
17 registration expires and the start of the current registered vehicle tax year,  
18 the vehicle is taxed as an unregistered vehicle as follows:

19               a.   The value of the motor vehicle is determined as of January 1 of the  
20 year in which the registration of the motor vehicle expires.

21               b.   In computing the taxes, the assessor must use the tax rates and any  
22 additional motor vehicle taxes of the various taxing units in effect on  
23 the date the taxes are computed.

24               c.   The tax on the motor vehicle is the product of a fraction and the  
25 number of months for which the vehicle was not taxed between the  
26 date the registration expires and the start of the current registered  
27 vehicle tax year. The numerator of the fraction is the product of the  
28 appraised value of the motor vehicle and the tax rate of the various  
29 taxing units. The denominator of the fraction is 12.

30               d.   Interest accrues on unpaid taxes for these unregistered classified  
31 motor vehicles at the rate of five percent (5%) for the remainder of  
32 the month following the month the taxes are due. Interest accrues at  
33 the rate of three fourths percent (3/4%) for each following month  
34 until the taxes are paid, unless the notice is prepared after the date the  
35 taxes are due. In that circumstance, the interest accrues beginning the  
36 second month following the date of the notice until the taxes are  
37 paid.

38               e.   For any months between the date the registration expires and the start  
39 of the current registered vehicle tax year that the vehicle is taxed as  
40 an unregistered vehicle pursuant to G.S. 105-312, the vehicle is not  
41 taxed as provided in this subsection.

42           (3)   A vehicle required to be listed pursuant to this subsection that is not listed by  
43 January 31 and is not registered before the end of the fiscal year for which it  
44 was required to be listed is subject to discovery pursuant to  
45 G.S. 105-312. G.S. 105-312, unless the vehicle has been taxed as a registered  
46 vehicle for the current year.

47       (b)   Exemption or Exclusion. – The owner of a classified motor vehicle who claims an  
48 exemption or exclusion from tax under this Subchapter has the burden of establishing that the  
49 vehicle is entitled to the exemption or exclusion. The owner may establish prima facie  
50 entitlement to exemption or exclusion of the classified motor vehicle by filing an application  
51 for exempt status with the assessor. assessor within 30 days of the date taxes on the vehicle are

1 due. When an approved application is on file, the assessor must omit from the tax records the  
2 classified motor vehicles described in the application. An application is not required for  
3 vehicles qualifying for the exemptions or exclusions listed in G.S. 105 282.1(a)(1). The  
4 remaining provisions of G.S. 105 282.1 do not apply to classified motor vehicles.

5 ..."

6 **SECTION 3.4.** G.S. 105-330.4 reads as rewritten:

7 "..."

8 (c) Remedies. – The enforcement remedies in this Subchapter apply to unpaid taxes on  
9 an unregistered classified motor vehicle. The enforcement remedies in this Subchapter do not  
10 apply to unpaid taxes on a registered classified motor ~~vehicle~~vehicle for which the tax year  
11 begins on or after August 1, 2013.

12 (d) Tax payments submitted by mail are deemed to be received as of the date shown on  
13 the postmark affixed by the United States Postal Service. If no date is shown on the postmark  
14 or if the postmark is not affixed by the United States Postal Service, the tax payment is deemed  
15 to be received when the payment is received ~~in the office of the tax collector.~~by the collecting  
16 authority. In any dispute arising under this subsection, the burden of proof is on the taxpayer to  
17 show that the payment was timely made."

18 **SECTION 3.5.** G.S. 105-330.5(e) is repealed.

19 **SECTION 3.6.** Effective July 1, 2011, Section 13 of S.L. 2005-294, as amended by  
20 Section 31.5 of S.L. 2006-259, Section 22(b) of S.L. 2007-527, and Section 65 of S.L.  
21 2008-134, reads as rewritten:

22 "SECTION 13. Sections 4 and 8 of this act become effective January 1, 2006. Sections 1,  
23 2, 3, 5, 6, 7, 10 and 11 of this act become effective July 1, ~~2011~~2013, or when the Division of  
24 Motor Vehicles of the Department of Transportation and the Department of Revenue certify  
25 that the integrated computer system for registration renewal and property tax collection for  
26 motor vehicles is in operation, whichever occurs first. Sections 12 and 13 of this act are  
27 effective when they become law. Nothing in this act shall require the General Assembly to  
28 appropriate funds to implement it for the biennium ending June 30, 2007."

#### 29 30 **PART IV. EFFECTIVE DATE**

31 **SECTION 4.1.** Except as otherwise provided, this act is effective when it becomes  
32 law.